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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 6001 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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SPL.LAQ OFFICER

Versus

PATEL HARISHBHAI BHAILALBHAI

Appearance:

Mr.K.P. Rawal, AGP, for the appellants1-2

MR GM AMIN for Respondent No. 1

CORAM : MR.JUSTICE M.H.KADRI

Date of decision: 02/07/2001

ORAL JUDGEMENT

1. Admitted. Learned advocate, Mr. G.M. Amin, waives service of notice for admission on behalf of the opponents. At the request of the learned advocates for both the parties, this appeal is taken up for final hearing today.

2. The lands of the claimant situated in village Marida, Taluka: Nadiad, came to be acquired for the public purpose of Ahmedabad-Vadodara Express Highway by notification under Section 4 of the Land Acquisition Act, 1894 ('Act' for short), which was published on July 28, 1987. After following the usual procedure, the Land Acquisition Officer made his award on October 20, 1987 offering compensation of the acquired lands of village Marida at the rate of Rs.250/- per Are. In the reference application filed by the claimant under Section 18 of the Act, the Reference Court, relying on the award made in the First Appeal No.1125 of 1995 by the Division Bench of this Court, determined compensation of acquired lands as on July 28, 1987 at the rate of Rs.2500/- per Are. The appellants have challenged the said judgment and award dated January 28, 1998 passed by the learned 2nd Extra Assistant Judge, Nadiad, in Land Reference Case No.148 of 1991 by filing this appeal.

3. Heard the learned advocate for the parties. The learned advocates for the parties have produced relevant documents and evidence for the purpose of deciding this appeal.

4. In my opinion, the award passed by the Reference Court does not call for any interference. For the purpose of determination of the market value of the acquired lands, the Reference Court has relied upon the judgment of the Division Bench of this Court rendered in First Appeal No.1125 of 1995 wherein, in respect of the lands acquired by notification under Section 4 of the Act published on August 14, 1986, the High Court had determined market value of the said acquired lands at Rs.2500 per Are. It may be mentioned that the determination of the market value by the Division Bench of the High Court was confirmed by the Supreme Court by judgment and order dated April 8, 1997 rendered in Civil Appeals Nos.2852 to 2858 of 1997. It thus becomes clear that the determination of market value by the High Court was confirmed by the Supreme Court at the rate of Rs.2500/- per Are for the lands of village Marida which were acquired for the very same purpose, i.e. Express Highway, by notification under Section 4 of the Act published on August 14, 1986. The notification under Section 4 of the Act in respect of the present acquired lands was published on July 2, 1987 which was after period of nearly one year. Therefore, in my opinion, the

reliance on judgment of the Division Bench of this Court rendered in First Appeal No.1125 of 1995 for the purpose of determining market value of acquired lands of same

village Marida. Under the circumstances, I am of the opinion that no ground is made out by learned counsel for the appellants to interfere with the impugned award in this appeal. The benefits extended to the respondents under statutory provisions of Sections 23(1-A), 23(2) and interest under Section 28 are also just and proper and do not call for any interference in this appeal.

5. For the foregoing reasons, the appeal fails and is dismissed with no order as to costs.

July 2, 2001 (M.H. Kadri, J.)
(swamy)